

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 1-21 are pending; Claims 1, 3, 8, and 10 are amended and no claims are canceled herewith. As support for the present amendment may be found, at least for example, in Figure 2 and in the specification at page 7, it is respectfully submitted that no new matter is added by this amendment.

In the outstanding Office Action, Claims 1, 2, 8, and 9 were rejected under 35 U.S.C. §102(b) as anticipated by Viltro et al. (U.S. Pat. No. 5,837,005, hereafter Viltro); Claims 3, 4, 10, and 11 were rejected under 35 U.S.C. §102(b) as anticipated by Zeoli-Jones (U.S. Pat. No. 5,840,418); Claims 5-7, 12-14, 19, and 21 were rejected under 35 U.S.C. §103(a) as unpatentable over Zeoli-Jones; Claim 15 was rejected under 35 U.S.C. §103(a) as unpatentable over Viltro in view of Ono et al. (WO 99/511174, hereafter Ono); and Claims 16-18 and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Viltro.

With regard to the rejection of Claims 1, 2, 8, and 9 under 35 U.S.C. §102(b) as anticipated by Viltro, that rejection is respectfully traversed. Independent Claims 1 and 8 have been amended to recite, in part, *an outermost base sheet* adapted to contact hair when in the wrapping state and that the outermost base sheet comprises a water resistant material. As shown in Figure 2, the base sheet is the outermost layer of the hair warming tool and comes into contact with the wrapped hair.

Viltro describes a cell forming layer 20 covered on one side by a cell covering layer 22, a first adhesive layer 28 and a first fabric layer 26, and a on the second side by a second adhesive layer 32 and a second fabric layer 30.¹ As Viltro states that first and second fabric

¹See Viltro, column 3, line 66 to column 4, line 3 and Figure 2.

layers 26 and 30 (the outermost layers) may be made of cotton or polyester, Viltro describes that first and second fabric layers 26 and 30 are not made of a water permeable material.²

Accordingly, as Viltro fails to disclose or suggest the outermost base sheet recited in independent Claims 1 and 8, it is respectfully submitted that Claims 1, 2, 8, and 9 patentably distinguish over Viltro. It is therefore respectfully requested that this rejection be withdrawn.

Regarding the rejection of Claims 3, 4, 10, and 11 under 35 U.S.C. §102(b) as anticipated by Zeoli-Jones, this rejection is also respectfully traversed.

Amended Claim 3 recites a hair treating method comprising:

wrapping tied hair with a hair warming tool of sheet form including an outermost base sheet comprising a water resistant material, the hair warming tool having at least one heating part to warm the hair, the tool wrapped around the hair with the outermost base sheet facing and contacting the hair while leaving at least a part of the hair near roots unwrapped.

Zeoli-Jones describes a thermal transfer hair treatment cap including a liner 12.

Zeoli-Jones states that liner 12 is preferably constructed of a cotton lycra fabric,³ which is not waterproof. Accordingly, it is respectfully submitted that Zeoli-Jones does not disclose or suggest an outermost base sheet adapted as recited in Claims 3 and 10, from which Claims 4 and 11 depend.

Thus, as Zeoli-Jones fails to disclose or suggest all the elements of Claims 3, 4, 10, and 11, it is respectfully requested that this rejection be withdrawn.

With regard to the rejection of Claims 5-7, 12-14, 19, and 21 under 35 U.S.C. §103(a) as unpatentable over Zeoli-Jones, this rejection is also respectfully traversed.

As explained above, Zeoli-Jones fails to disclose or suggest the outermost base sheet recited in independent Claims 3 and 10, from which Claims 5-7 and 19, and 12-14 and 21

²See Viltro, column 6, lines 1-24.

³See Zeoli-Jones, column 3, lines 46-56.

respectively depend. Therefore, it is respectfully requested that the outstanding rejection of Claims 5-7, 12-14, 19, and 21 be withdrawn.

Regarding the rejection of Claim 15 under 35 U.S.C. §103(a) as unpatentable over Viltro in view of Ono, that rejection is respectfully traversed.

As noted above, Viltro fails to disclose or suggest the outermost base sheet of Claim 1, from which Claim 15 depends. Ono discloses a steam generating pad 10A with a moisture permeable outer bag 4. Thus, Ono explicitly teaches away from having an outermost base sheet comprising a water resistant material, as recited in Claim 1, from which Claim 15 depends. Since neither Viltro nor Ono, either alone or in combination, teaches or suggests each and every element of Claim 1, Claim 15 is patentable over Viltro and Ono.

Moreover, it is respectfully submitted that there is no basis in the teachings of either Viltro or Ono to support the applied combination. The outstanding Office Action fails to cite to any teachings within either of the references to support the applied combination. Accordingly, it is respectfully submitted that the combination of Viltro with Ono is based upon hindsight reconstruction, and is improper.

Finally, with regard to the rejection of Claims 16-18 and 20 under 35 U.S.C. §103(a) as unpatentable over Viltro, that rejection is also respectfully traversed. Claims 16-18 depend from Claim 1 and Claim 20 depends from Claim 8.

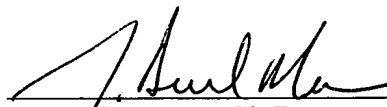
As set forth above, Viltro does not disclose or suggest the outermost base sheet of Claims 1 or 8. Therefore, it is respectfully submitted that Claims 16-18 and 20 patentably distinguish over Viltro, and it is respectfully requested that this rejection be withdrawn.

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Consequently, in view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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